



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-1999-6254]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated December 21, 2012, Santa Clara Valley Transportation Authority (VTA) has petitioned the Federal Railroad Administration (FRA) for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations. FRA assigned the petition Docket Number FRA-1999-6254.

VTA's 42.2-mile light rail transit (LRT) system began service in December 1987. The initial 9-mile segment from Santa Clara through downtown San Jose, CA, was completed in June 1988. By April 1991, VTA had extended its service to a 20.8-mile LRT system with 33 stations and 11 park-and-ride lots.

In December 1999, VTA began operations on its 7.6-mile Tasman West Extension, which connects Mountain View, CA, with VTA's existing light rail line. The Tasman East Extension followed in two phases. Phase I, which provides LRT service from VTA's Baypointe Transfer Station to its I-880/Milpitas Station, was completed in May 2001. Phase II, which provides LRT service from VTA's I-880/Milpitas Station to

its Hostetter Station, was completed in June 2004, in conjunction with the Capitol Light Rail Extension south of Hostetter Station to Alum Rock Station. On October 1, 2005, VTA's Vasona Extension—which runs from downtown San Jose, CA, to the Winchester Transit Center—began service.

The Vasona Extension is an LRT line that features “limited connections” to the general railroad system of transportation due to a shared corridor of operation with Union Pacific Railroad (UP). Specifically, the Vasona Extension includes 5 miles of an existing 15-mile long freight railroad industrial lead that is serviced by UP. VTA owns the 5-mile section of track along the shared corridor with UP. VTA and UP maintain an Operations and Maintenance Agreement (Agreement), which includes an exclusive operating easement for UP. The Agreement allows UP to fulfill its common carrier obligation to operate freight service along the shared corridor. This Agreement also requires VTA to inspect, maintain, and repair all track, signal systems, and automatic warning devices along the shared corridor. UP's freight operations are minimal and limited to daylight hours, with a maximum authorized speed of 10 mph.

By letter dated September 26, 2005, FRA granted VTA partial relief from certain provisions of the Federal railroad safety regulations for VTA's operations on the Vasona Extension. In a July 11, 2011, letter, VTA requested that FRA extend the terms and conditions of the waivers for another 5 years. FRA's subsequent reply letter, dated November 16, 2011, denied the requested 5-year extension, citing “certain instances of noncompliance by [VTA] with applicable FRA safety regulations.” Instead, FRA granted VTA an 18-month extension of the waivers, with the possibility of a further extension, subject to VTA addressing FRA's safety concerns.

In a December 21, 2012, letter, VTA requested that FRA extend the terms and conditions of the subject waivers for another 5 years. VTA states that it has worked diligently to address the issues raised by FRA in its November 16, 2011, reply letter. Since 2011, VTA has written to and met with FRA officials to clarify specific areas of concern, as well as to obtain guidance on complying with the applicable FRA regulations. VTA maintains that as a result of the discussions with FRA, it has implemented a number of changes to address FRA's concerns and to achieve full regulatory compliance. VTA therefore believes that it is appropriate to request, and for FRA to grant, a 5-year extension of the waivers.

VTA also falls under the safety oversight of the California Public Utilities Commission, which is authorized by the Federal Transit Administration. See *Statement of Agency Policy Concerning Jurisdiction Over the Safety of Railroad Passenger Operations and Waivers Related to Shared Use of the Tracks of the General Railroad System by Light Rail and Conventional Equipment*, 65 FR 42529 (July 10, 2000). See also *Joint Statement of Agency Policy Concerning Shared Use of the Tracks of the General Railroad System by Conventional Railroads and Light Rail Transit Systems*, 65 FR 42626 (July 10, 2000).

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue, S.E., W12-140, Washington, D.C. 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: <http://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Fax: 202-493-2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., W12-140, Washington, D.C. 20590.
- Hand Delivery: 1200 New Jersey Avenue, S.E., Room W12-140, Washington, D.C. 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by [INSERT DATE 45 DAYS FROM PUBLICATION OF THIS NOTICE] will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See <http://www.regulations.gov/#!privacyNotice> for the privacy notice

of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on February 20, 2013

Robert C. Lauby
Deputy Associate Administrator
for Regulatory and Legislative Operations

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